

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Joseph A. Porter,

Plaintiff,

Civil No. 09-2536 (RHK/LIB)

v.

ORDER

Officer Mark McDonough, and City of
Coon Rapids,

Defendants.

This matter is before the Court *sua sponte*.

On January 4, 2011, the Court issued an Order for a Writ of Habeas Corpus *ad Testificandum* with regard to Joseph A. Porter. (Doc. No. 61). Porter is the Plaintiff in the above-captioned action, which is scheduled for a jury trial before the undersigned beginning on January 13, 2011. He is currently confined in the Minnesota Correctional Facility in Moose Lake. The Writ was issued to the Warden of that facility, directing her to bring Porter before the undersigned for the trial at 9:00 a.m. on Thursday, January 13, and each day thereafter until the trial concludes.

The Court was advised through a telephone call from Patrick Courtney, counsel with the Minnesota Department of Corrections (“DOC”),¹ that the Warden did not intend to comply with the Writ because the Court lacked authority to issue it. On January 7, 2011, the Court issued an Order (Doc. No. 65) setting forth its authority for the Writ and advising the Warden of its intention to proceed with the trial. In response, Mr. Courtney

¹ The Court’s records indicate that Mr. Courtney is not admitted to practice before this Court. To the extent he intends to appear in this matter, he must first be so admitted.

notified the Court via e-mail that the DOC was considering the matter and would “advise the Court of [its] decision as soon as possible.” To date, the Court has received no further communication from the Warden or any representative of the DOC.

The trial in the above-captioned matter is scheduled to begin in three days. Numerous trial arrangements have been made by the parties, their attorneys, and the Court. A jury panel will be reporting on the morning of January 13. Thus, as a practical matter, the Court must know how the Warden intends to proceed.

Based on the foregoing, it is **ORDERED** that Becky Dooley, Warden of the Minnesota Correctional Facility – Moose Lake, advise the Court, in writing, by 9:00 a.m. tomorrow (January 11, 2011) whether she intends to comply with the Writ or, rather, whether she intends to adhere to her previously expressed intention not to comply. If Warden Dooley’s response is anything other than a representation of her intent to comply, the Court will issue an Order directing her to appear in person before this Court and show cause why she should not be held in contempt of Court for her expressed intention to disobey the Writ.

The U.S. Marshals Service is **DIRECTED** to personally serve a copy of this Order upon Becky Dooley, Warden of the Minnesota Correctional Facility – Moose Lake, 1000 Lake Shore Drive, Moose Lake, Minnesota 55767.

Dated: January 10, 2011

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge